

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) PINNACLE PACKAGING COMPANY, )  
INC., an Oklahoma corporation, )  
2) POLO ROAD LEASING, LLC, an Okla- )  
homa limited liability company, and )  
3) J. SCOTT DICKMAN, )

Plaintiffs, )

vs. )

4) ONE EQUITY PARTNERS LLC, a )  
Delaware limited liability company, )  
5) ONE EQUITY PARTNERS )  
(EUROPE) GmbH, and )  
6) CONSTANTIA FLEXIBLES GmbH, an )  
Austrian corporation, )

Defendants. )

Case No. 12-CV-537-JED-TLW  
Jury Trial Demanded

**COMBINED MOTIONS FOR ISSUANCE OF LETTER ROGATORY, ORDER,  
AND UNOPPOSED EXTENSION OF SERVICE TIME**

The Plaintiffs, Pinnacle Packaging Company, Inc., Polo Road Leasing, LLC, and J. Scott Dickman, move the Court (1) to issue in accordance with Rule 4(f)(2)(B) Fed.R.Civ.P. a letter rogatory in the form attached hereto as Exhibit 1, and named Request for International Judicial Assistance (the "Request"), including provision of an original signature of the judge thereon and a certified copy with the Court's seal on the signature page; (2) to issue in accordance with Rule 3(f)(1) Fed.R.Civ.P. the Order Appointing International Process Server in the form attached hereto as Exhibit 2, and to provide an original signature of the judge thereon; and (3) to enlarge pursuant to Rule 4(m) the time for service of process from the 120-day period that lapsed on January 23, 2013, to one year from the issuance of this Court's order on these Combined Motions. In

support of these Combined Motions, the Plaintiffs show the Court:

1. On September 26, 2012, the Plaintiffs commenced this action with their Complaint.
2. On December 28, 2013, Plaintiffs filed their Amended Complaint naming the two original Defendants, Constantia Flexibles GmbH (“Constantia”), an Austrian corporation, and One Equity Partners LLC, a Delaware limited liability company, and naming a new Defendant, One Equity Partners (Europe) GmbH (“One Equity Partners (Europe)”), a German corporation.
3. Service was effected on One Equity Partners LLC on October 5, 2012.
4. Through this filing, assistance with service on Constantia is sought, because Austria is not a signatory country to The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents (the “Hague Convention”), and, consequently, service of process must be effected through a letter rogatory process. This requires for Austria the original signed Request and certification.
5. One Equity Partners (Europe) GmbH, is a German corporation that may be served through international process as Germany is a signator country to the Hague Convention. Consequently, the motion is made for execution of the Order Appointing International Process Server and an original signature.
6. Summonses have been issued.
7. Granting this Motion will enable the Plaintiffs to effect service of process in Germany and Austria.
8. Good cause exists to enlarge the time for service of process in Austria and Germany. Following the filing of the Complaint, the Plaintiffs sought service on

Constantia by serving the Secretary of State for the State of Oklahoma. Thereafter, Constantia filed a motion challenging service, and it and One Equity Partners LLC moved to dismiss the Complaint. Thereafter, the parties undertook negotiations concerning jurisdictional discovery. This ultimately resulted in the Plaintiffs filing their Amended Complaint, and undertaking to proceed to effect service on Constantia through a letter rogatory. This took additional time for identification of an appropriate service to assist the letter rogatory process. Eventually, Crowe Foreign Services (“Crowe”) was retained and an \$8,000.00 payment has been made to it. This has enabled it to commence translating the Amended Complaint into the German language required by Austria for service. These delays have resulted in the 120-day period lapsing on January 23, 2013 that is referenced in Rule 4(m). Plaintiffs are proceeding to effect service in Austria and in Germany, and rather than dismissing the case and refiling, Plaintiffs have sought from the counsel representing One Equity Partners LLC and Constantia their consent to a one-year extension of time for service of process, which has been given. Plaintiffs are advised by Crowe that effecting service in Austria cannot be expected to occur in less than six months, as diplomatic channels must be used, and service could very well take a one-year period of time. Plaintiffs have proceeded in good faith to try to effect service, and believe the aforesaid explanation constitutes good cause for this Court to extend the service time by one-year from the date of its order.

WHEREFORE, Plaintiffs respectfully request their Combined Motions be granted and they be given other just and appropriate relief.

s/Laurence L. Pinkerton

Laurence L. Pinkerton, OBA #7168

Pinkerton & Finn, P.C.

Penthouse Suite

15 East 5th Street

Tulsa, OK 74103-4303

Tele: 918-587-1800

Fax: 918-582-2900

ATTORNEY FOR PLAINTIFFS

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2013, I electronically transmitted the foregoing pleading, to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

John D. Russell, Esq.  
FELLERS, SNIDER, BLANKENSHIP,  
BAILEY & TIPPENS  
321 S. Boston Ave., Suite 800  
Tulsa, Oklahoma 74103-3318

Gabrielle Gould, Esq.  
Cheryl Howard, Esq.  
FRESHFIELDS BRUCKHAUS DERINGER US LLP  
601 Lexington Ave., 31st Floor  
New York, NY 10022

/s/ Laurence L. Pinkerton

# **EXHIBIT 1**

**IN THE UNITED STATES DISTRICT COURT  
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homa limited liability company, and  
3) J. SCOTT DICKMAN,

Plaintiffs,

vs.

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Delaware limited liability company,  
5) ONE EQUITY PARTNERS  
(EUROPE) GmbH, and  
6) CONSTANTIA FLEXIBLES GmbH, an  
Austrian corporation,

Defendants.

Case No. 12-CV-537-JED-TLW

**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE**

The United States District Court, Northern District of Oklahoma, presents its compliments to the appropriate Judicial Authority in Austria and requests international judicial assistance to effect Service of Process upon a named Defendant in the above captioned Civil proceeding currently pending before this Court.

Plaintiffs have filed a claim in the above captioned matter including, but not limited to, allegations that the Defendants have breached their contract with Plaintiffs, causing Plaintiffs damages. Plaintiffs seek judgment including, but not limited to, damages as allowed by law.

This Court requests the assistance described herein as necessary in the interests of justice. It has been represented to this Court that Defendant, **Constantia Flexibles GmbH**, can presently be served at the following address:

**Rivergate, Handelskai 92  
1200 Vienna  
AUSTRIA**

This Court respectfully requests that you cause one copy of the attached Summons in a Civil Action and Amended Complaint, with Exhibits, with certified German translations thereof, to be served upon **Constantia Flexibles GmbH**, at the above address by leaving with a director, officer, or other entity authorized to accept the service of civil process in the manner prescribed for service of similar documents under the laws of Austria.

This Court further requests that, after service has been made, you cause the person who serves the documents upon **Constantia Flexibles GmbH** to execute a Certificate of Service and return it, together with a copy of the documents served, to this Court at the address below.

Plaintiffs' counsel, Pinkerton & Finn, P.C. 15 East 5<sup>th</sup> Street, Penthouse Suite, Tulsa, Oklahoma, 74103-4303, USA, stand ready to reimburse your authority for all expenses incurred in executing this request for judicial assistance.

This Court also assures your authority that it will reciprocate with similar assistance in like cases and extends to the Judicial Authorities in Austria the assurance of its highest consideration.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Honorable John E. Dowdell  
United States District Court for the  
Northern District of Oklahoma  
333 West Fourth Street, Room 411  
Tulsa, Oklahoma 74103  
USA

[seal]



## **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT  
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Defendants.

Case No. 12-CV-537-JED-TLW

**ORDER APPOINTING INTERNATIONAL PROCESS SERVER**

Pursuant to Chapter 1, Article 3 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters developed at the Tenth Session of the Hague Conference on Private International Law on 15 November, 1965 (the "Hague Convention"), and for good cause shown, the Court hereby appoints Crowe Foreign Services, 1020 SW Taylor Street, Suite 240, Portland, Oregon, 97205, and its agents, as the authority and judicial officer competent under the Jurisdiction of this Court to forward to the Central Authority in the applicable country, any and all documents to be served in this case.

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BY THE COURT:

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